

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Wednesday 4th March, 2009

No. 54

GOVERNMENT OF SIKKIM
FINANCE, REVENUE & EXPENDITURE DEPARTMENT
GANGTOK (SIKKIM)

No10/Fin/Adm

Dated: 23.01.2009

NOTIFICATION

In exercise of the powers conferred by section 23 of the Sikkim Online Gaming (Regulation) Act, 2008 (23 of 2008), the State Government hereby makes the following rules, namely:-

1. **Short title and commencement:-** (1) These rules may be called the Sikkim On-line Gaming (Regulation) Rules, 2009.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. **Definitions:-** In these rules, unless the context otherwise requires;-
 - (a) "Act" means the Sikkim On-line Gaming (Regulation) Act, 2008;
 - (b) "advertisement" includes every form of advertising or promotion, whether by means of the Internet, in a radio or television programme or message (whether broadcast or not), in a written or printed publication, by the display of notices, signs, labels or showcards, by means of circulars or other documents or through any other medium;
 - (c) "Form" means a form appended to these rules;
 - (d) "hyperlink" includes an active icon;
 - (e) "OGS" means a computer or system or systems of computers by means of which online gaming is conducted, (including but not limited to equipment or disseminating or distributing a result, or part of a result or determining a winning player) in relation to or used in connection with, online gaming as well as;
 - (i) all its associated components, and
 - (ii) its operating systems and applications software.
 - (f) "operator" in relation to any On-line game, means the person by whom it is conducted;
 - (g) "person" includes a Partnership Firm or Company registered in accordance with the provisions of the law relating to the registration of such Partnership Firm or Company as the case may be, for the time in force in the State;
 - (h) "player" means in relation to an online gaming a person participating in on-line game with the operator, or the overseas licensed operator;
 - (i) "Schedule" means the Schedule appended to these rules;
 - (j) "website" means an electronic communication or set of electronic communications which complies with the Hyper text Transfer Protocol and may be accessed and viewed in visible and legible form by any person having ordinary access to the global systems of inter communicating computers known as the Internet.

- 3. Games that can be played On-line.-** The following games may be played On-line in the manner provided under these rules, namely:-
(i) Roulette, (ii) Black Jack, (iii) Pontoon, (iv) Punto Banco, (v) Bingo, (vi) Casino Brag, (vii) Poker, (viii) Poker Dice, (ix) Baccarat, (x) Chemin-de-for, (xi) Backgammon, (xii) Keno, (xiii) Super Pan 9.
- 4. Application for license.-** Every person interested to operate on-line games specified in rule 3, shall make an application to the Government in Form I accompanied by a Bank Receipt for five hundred rupees as application fee.
- 5. (1) Issue of license for On-line game.-** On receipt of an application under rule 4, the Government shall examine the application and after making such inquiry as it considers necessary, may grant a license for operation of On-line game in Form-2 on payment of a fee of one lakh rupees.
(2) The license granted under sub-rule(1) shall be valid for a period of one year which may be renewed for a further period of one year on payment of a renewal fee of one lakh rupees.
- 6. Payment of On-line gaming levy:-** (1) The licensee shall pay to the Government an Online Gaming levy at the rate of one percent (1%) of the gross gaming yield.
(2) The On-line gaming levy for the proceeding month shall be paid by the licensee by the fifteenth day of every following month duly filling the details in the statement in Form-3 failing which a penalty equivalent to one-fifth of the levy will be charged on the licensee.
(3) A licensee shall be required to execute a Bank Guarantee of five crore rupees in favour of the Government as security deposit every year at the time of the issue and renewal of the license. On expiry of the period of one year, the licensee shall have to give a fresh Bank Guarantee of an equal amount to the Government.
- 7. Maintenance of a Website.-** (1) Every licensee shall, in relation to any On-line game, maintain a website the front or home page of which shall contain the following, namely:-
(a) its full name and address of its registered office;
(b) the number of license under which the Online game is conducted;
(c) the date on which the license was originally granted;
(d) a statement that the online game is regulated in Sikkim State;
(e) hyperlink to the websites of the Government and players Anonymous;
(f) one or more hyperlinks to a page or pages setting out:-
(i) a summary of the arrangements for registration;
(ii) a statement that persons under the age of eighteen years are not permitted to register or to participate in the game;
(iii) a statement that On-line game debts are enforceable in law in Sikkim.
- 8. Advertisement of online games.-** (1) Every advertisement of online game shall contain URL of or in the case of an advertisement on a website, a hyperlink to the website maintained under rule-6.
(2) Every advertisement of on-line game shall comply with the following general requirements, namely:-
(g) it shall not be indecent or offensive;
(h) it shall be based on facts; and
(i) it shall not be false, deceptive or misleading in any material particular.
(3) Without prejudice to sub-rule (2), every advertisement of online game shall comply with the following requirements, namely:-

- (a) It shall not contain any Statement as to the legality or otherwise of online game betting in any other jurisdiction;
- (b) It shall not be directed at any jurisdiction in which online game or any kind of online game is prohibited;
- (c) It shall not have any sexual content;
- (d) It shall not be directed at person under eighteens years of age;
- (e) It shall not contain any material in breach of copyright;
- (f) If it make any claim as to the potential payout of a game, it shall contain sufficient information to enable a person to determine readily and easily the expected percentage return to him over a period of time, disregarding any exercise of skill by him.
- (4) If it appears to the Government that any advertisement of online game does not comply with sub-rule (2) or (3) they may direct the operator either.-
 - (a) to stop the advertisement being published or shown, or
 - (b) to take such steps as they may specify to change the advertisement to comply with sub-rule (2) or (3) as the case may be.
- (5) A direction under sub-rule (4) shall be in writing and state the grounds on which it is given and the time within which it must be complied with.
- (6) If any requirement of sub-rule (2) or (3) is contravened, or if a direction under sub-rule (4) is not complied with, each of the following-
 - (a) the Licensee and
 - (b) the person who is the designated official in relation to the licensee is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand rupees.

9. Certification of OGS:- (1) A licensee or the operator acting on his behalf shall, before any online gaming is conducted by means of any OGS, produce to the Government a certificate in writing issued by a person approved for the purpose by the Government that the OGS by means of which it is conducted complies with the standards specified in the Schedule.

(2) The obligation under sub-rule (1) arises;

(a) prior to the licensee or the operator permitting the OGS to be accessed by any player for the placing of wagers; and

(b) on or before the expiry of the periods specified in the license.

(3) Sub-rule (1) will not apply in so far as the licensee or the operator intending to use the OGS produces to the Government a certificate in writing issued by a person approved for the purpose by the Government (prior to the OGS being accessed by players directly or indirectly for the purpose of placing wagers) that the OGS is not different in any material, technical or operational respect to an OGS already certified as being fully compliant with the Schedule for and on behalf of another operator under sub-rule (1).

10. Alteration of OGS.- (1) The OGS by means of which any online gaming is conducted may not without the prior approval of the Government or the officer authorized by the Government in this behalf be altered in any way which is likely to affect its compliance with the requirements of the Schedule, subject to sub-rule (2) of rule 8.

(2) Sub-rule (1) will not apply to each new game launched by the Licensee provided that nothing in this rule will obviate the requirements that the OGS continues to comply fully with the Schedule.

11. Penalties.- If any requirement of rules 8 or 9 is contravened, the licensee or the operator, as the case may be, shall on conviction, be punishable with a fine which may extend to five thousand rupees.

- 12. Manner of keeping the accounts.-** (1) Every Licensee shall maintain the accounts of the all online games showing the details of the Gross Gaming yield and the levy payable to the Government in a register as may be specified for the purpose by the Government:
(2) Every licensee shall submit to Government a statement of gross Gaming yield and levy payable to Government every month in Form 3 as prescribed under sub-rule (2) of rule 5.
- 13. Prohibition of minors from playing on-line game.-** (1) No licensee or his operator shall allow or admit or register person below the age of eighteen years to play on-line games specified in these rules.
(2) If any licensee is found contravening the provision of sub-rule (1) he shall be punished with a fine not exceeding one thousand rupees.
- 14. Penalty for contravention of conditions of license.-** If the holder of a license or any person acting on his behalf commits a breach of any of the conditions of the license under section 12 of the Act, he shall, on conviction, be punished with a fine which may extend to ten thousand rupees.
- 15. Penalty for failure to keep and submit the accounts.-** If any person liable under section 13 to keep accounts or to submit statement of accounts fails to keep accounts or to submit statement of accounts as required by that section or keeps accounts or submits statement of account which are false and which he either knows or believes to be false or does not believe to be true, he shall, on conviction, be punished with a fine which may extend to ten thousand rupees.
- 16. Penalty for contravention of conditions of license or of rules by persons playing on-line games and exhibition of conditions of license by licensee.-** If any person other than the licensee while playing on-line game at the approved website licensed under the Act commits a breach of any of the conditions of the license as exhibited, or of the rules to be observed in playing such games, he shall, on conviction, be punished with a fine which may extend to five thousand rupees.
- 17. Interpretation –** If any question arises as to the interpretation of any of these rules, the matter shall be referred to the Government and the decision of the Government thereon shall be final.

Form - 1
(see rule 4)
Form of application

To,

The Authorized Officer,
..... Department,
Govt. of Sikkim.

Sir,

I/we,
(full name)

.....
(name of company/partnership firm),

S/o, a company/partnership firm registered under the Companies Act, 1956 /Partnership Act,..... am/are desirous to operate On-line games as specified under rule 3 of the Sikkim On-line Gaming (Regulation) Rules, 2009.

I/we, therefore, apply for a license for operating the On-line games from Sikkim. I/we enclose herewith copies of the registration certificate/Memorandum and Articles of association/Partnership firm for your reference.

I / we under-take to abide by the provisions to the Sikkim On-line (Regulation) Act, 2008 and the rules made there-under and terms and conditions of on-line games as may be stipulated in the license.

I / we hereby also undertake that in the event of grant of license to me/us, I/we will pay to the Government the levy as per rate/rates specified under rule 5 of the aforesaid rules.

I/we enclose herewith a Bank Receipt No..... dated..... for Rs.500/- as application fee.

Yours faithfully,

Place:

Date

Signature of the applicant

Seal of the Company/Firm

Form 2
(See sub-rule (1) of rule 5)
Form of Licensee for On-Line Games

License No.....

Date.....

This license is granted to Shri/Messers Director/Proprietor of
(Name of the person/Company/Partnership firm)
.....for conducting On-Line Games
(detail address of the person/Company/Partnership Firm)
specified under rule 3 of the Sikkim Online Gaming (Regulation) Rules, 2009 on the following terms
and conditions; namely :-

- (1) The licensee shall operate the On-line games from Sikkim only;
- (2) The license shall ensure that the operation of the On-line games shall not cause any disturbance or nuisance to any person or individual in any manner whatsoever;
- (3) The Licensee shall provide appropriate On-line facility/network to the player of the On-line games
- (4) The Licensee shall make available only the games specified under rule 3 of the Sikkim On-Line Gaming (Regulation) Rules, 2009. If the Licensee intends to include new games, prior approval of the Government shall be taken by him.
- (5) The Licensee shall allow any officer authorized by the Government to inspect the premises from where the On-Line games are operated.
- (6) The Licensee shall pay to the Government a sum of Rs.1,00,000/- as licensee fee annually through a challan in the prescribed form and deposit the same under the Government account.
- (7) This license is valid for a period of one year w.e.f..... subject to renew for further period of one year on payment of the prescribed fee.
- (8) This license is granted to the Licensee subject to the provisions of the Sikkim On-Line Gaming (Regulation) Act, 2008 and the Sikkim On-Line Gaming (Regulation) Rules, 2009.
Certified that the licensee has paid Rs.1,00,000/- (Rupees One lakh) only as fee for issuance of this license vide challan No. dated.....
- (9) This license is liable to be cancelled if the licensee violates any of the above terms and conditions and the provisions of the Sikkim On-Line Gaming (Regulation) Act, 2008 and the rules made thereunder.

Date.....

Place.....

Seal

Authorized Officer,

FORM - 3
(See sub_rule (2) of rule 5)

STATEMENT OF ACCOUNT OF GROSS GAMING YIELD (to be submitted monthly by the licensee)

Year.....		Month.....				
SI.No.	Date	Time	Name of the Game	Amount/Gaming yield	Total	Amount of Govt. levy
1	2	3	4	5	6	7

Certified that the above figures are verified by me and found to be in order.

Signature.....
Name.....
Designation of Licensee/operator
Dated

THE SCHEDULE
(see sub-rule (1) of rule 8)
REQUIREMENTS WITH WHICH OGS MUST COMPLY

General

1. The OGS must -
 - (c) follow the game rules published to the player or prior to its placing any wagers;
 - (d) provide over specified periods no more than the house advantage agreed by the Commissioners with the operator; and
 - (e) integrate contingencies for loss of continuity of play; and
 - (f) if utilized in any peer to peer game, ensure that over the specified periods that no one player has any advantage over any other player playing the same game.

2. Both the gaming and financial transactions software must be congruent and s secure.
Randomness

- 3 (1) The OGS must satisfy the following criteria for randomness for any gaming, namely:-
 - (a) the data must be randomly generated, passing appropriate statistical non static output results tests of randomness (e.g., Marsaglia's "Diehard" set of tests) uniformly distributed over the set range;
 - (b) the data must be unpredictable, i.e. it must not be computationally feasible to predict what the next number will be, given complete knowledge of the algorithm or hardware generating the sequence, and all previously generated numbers; and
 - (c) The series cannot reliably be reproduced, i.e. if the sequence generator is activated again with the same input (as exactly as humanly possible) it will produce two completely unrelated random sequences.(2) The licensee must disclose the methodology of any random seeding and any seeding must be proven to result in an unpredictable output.
4. The outcome of any game, and the return of the player, must be independent of the CPU, memory, disk or other components used in the computer or other device used by the player.
5. The game outcome must not be affected by the effective bandwidth, link utilization, bit error rate or other characteristic of the communications channel between the OGS and the computer or other device used by the player.
6. The OGS must be able to display for each game the following information (i.e. on the current page or on a page directly accessible from the current page via a hyperlink):
 - (a) the name and rules of the game;
 - (b) restrictions on play;
 - (c) instructions on how to play, including a pay-table for all prizes and special features;
 - (d) the player's current account balance and currency or currencies utilized to place wagers;
 - (e) unit and total wagers permitted;
 - (f) the return to the player, or sufficient information to enable a player to determine readily and easily the expected return to him in relation to any game, disregarding any exercise of skill by him; and
 - (g) for the specified periods in which the tests take place, the percentage of total wagers returned to players in relation to all house games offered by the operator.

Reporting requirements

7. All financial reports produced by the OGS must be readily reconcilable with gaming transaction reports, and all such reports shall be freely available to the Government.
8. The OGS must—
 - (a) be capable of producing monthly auditable and aggregated financial statements of gaming transactions; and
 - (b) calculate accurately the levy and other dues to the Government.
9. The OGS must maintain information about all game played, including —
 - (a) the identify of the player;
 - (b) the time the game began;
 - (c) the balance on the player's account at the start of the game;
 - (d) the wagers placed in the game (timestamped);
 - (e) the game status (in progress, complete, etc.)
 - (f) the result of the game (timestamped);
 - (g) the time the game ended;
 - (h) amount won or lost by the player;
 - (i) the balance on the player's account at the end of the game; and
 - (j) the currency or currencies utilized by the player.
8. The OGS must maintain information about significant events as follows—
 - (a) large wins (as agreed by the Government from time to time);
 - (b) transfers of funds (between players or between any player and the licensee) in excess of such amount as the Government may from time to time direct by notice in writing to the licensee.
 - (c) material changes made by the licensee to game returns, disclosed under paragraph 6(f) above; and
 - (d) material fluctuations in theoretical/estimated statistical return to players (being a percentage of lost players' wagers agreed with the Government from time to time).

T.P.Kolrala, SFAS
Secretary(Finance)/Controller (Accounts).

